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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,072	02/11/2004	Michael E. Farmer	65858-0028	2106

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EXAMINER

TO, TUAN C

ART UNIT

PAPER NUMBER

3663

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/776,072

Applicant(s)

FARMER, MICHAEL E.

Examiner

Tuan C. To

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07/28/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 34 is/are pending in the application.
- 4a) Of the above claim(s) 3,4,9 and 10 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-26 and 34 is/are allowed.
- 6) ☒ Claim(s) 1,2,7,13,16 and 17 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 8, 11, 12, 14, 15, and 18-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/17/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group I, claims 1, 2, 5-8, 11-26 in the reply filed on 07/28/2006 is acknowledged. The traversal is on the ground(s) that there is no serious burden on the examiner.

This is not found persuasive because the following:

MPEP 808 cites the reasons for insisting upon a restriction requirement. In the restriction requirement, the examiner not only showed separate classification but also the reasoning why said group were restrictable (i.e., process/apparatus). The applicant does not argue that the group are not separable, but rather argues the burden placed on the examiner. This is not persuasive. Clearly, a burden exists when more than one invention is claimed and requires numerous class/subclass searches.

The requirement is still deemed proper and is therefore made FINAL.

An action on claims 1, 2, 5-8, 11-26, and the new claim 34 as follows:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1, 2, 7, 13, 16, and 17 are rejected under 35 U.S.C. 102 (e) as being anticipated by Owechko et al. (US 6801662B1).

Regarding claims 1 and 7, Owechko et al. teaches a classification system for generating a classification of an occupant obtained with at least one image sensor (Owechko et al., abstract) comprising: a grouping system which includes a plurality of group, for example, a plurality of occupant types (Owechko et al, abstract), wherein each occupant type includes at least one class (edges, motion, and range (Owechko et al, abstract; figure 1). Owechko et al. further teaches a selection subsystem that provides for generating said classification using the information obtained from the image sensor (Owechko et al, figure 1, the image 105 of occupant has been captured by the image sensor, and next there are a plurality of subsystem (modules) provided to generate classification).

While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

As to claim 2, Owechko et al. further teaches the classification modules (Owechko et al, column 4, lines 41-62) provided for a prior determination,

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wherein generating of said classification by said classification modules is influenced by said prior determination (Owechko et al, column 4, lines 56-62).

As to claim 13, Owechko et al. teaches a safety restraint application (airbag enablement/disablement). The target information (occupant image) has been classified, and the safety restraint system is either enable or disable based upon the result of the classification (Owechko et al., figure 1; column 4, lines 53-62).

As to claim 16, Owechko et al. discloses a plurality of classes includes an RFIS, a child, and an adult (Owechko et al., column 5, lines 45-67).

As to claim 17, Owechko et al. teaches that the occupant image has been captured by at least one image sensor (Owechko et al, abstract).

Allowable Subject Matter

Claims 22-26, and 34 are allowable since the prior art fails to disclose said classification using belief metric and plausibility metric.

Claims 5, 6, 8, 11, 12, 14, 15, and 18-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusions

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner,


Tuan C To

September 04, 2006